

fermentation vessel because aerobic fermentation requires a supply of oxygen-containing gas to the fermentation liquid medium. By definition, an anaerobic fermentation vessel lacks such means, and as a result cannot be used to practice aerobic fermentation. It is submitted that restriction is improper, and it is requested that the restriction requirement be withdrawn.

The Examiner also believes that the application contains claims directed to patentably distinct species of the claimed invention wherein (a) the fermentation gas is carbon dioxide or methane, and (b) the fermentation gas is removed by nitrogen or by vacuum. A selection of one specie from (a) and one from (b) is required. Applicant disagrees with this requirement because the fundamental nature of the invention does not depend upon whether the gas is carbon dioxide or methane, or whether the gas is removed by nitrogen purge or by vacuum. The formation of different fermentation gases and the methods of removing these gases are merely embodiments of the invention rather separate inventions. It is submitted that this requirement to elect species is improper and should be withdrawn.

Applicant provisionally elects, with traverse, examination of Invention I (Claims 1-28). Applicant provisionally selects, with traverse, the specie wherein the fermentation gas is carbon dioxide (Claims 8, 19, and 27) and the specie wherein the gas is removed by a flow of nitrogen gas (Claims 4 and 15). Accordingly, examination is requested for Claims 1-4, 6, 8-15, 17, 19-25, 27, and 28. Claims 5, 7, 16, 18, 26, and 29-31 are withdrawn and Applicant reserves the right to file one or more divisional applications for these claims.

Respectfully submitted,



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